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Evaluation Dutch National Rapporteur on Human Trafficking and Sexual Violence Against Children – summary

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Background

On 1 April 2000, the Netherlands was the first EU Member State to appoint a National Rapporteur in the area of human trafficking, following the implementation of the *Hague Declaration* that was drafted after a European ministerial conference on trafficking in women. This conference took place in 1997 in The Hague. Ms A.G. (Dien) Korvinus was the first National Rapporteur and in 2002 the first report was published describing the state of play in human trafficking in the Netherlands. Ms Korvinus was succeeded in October 2006 by Ms C.E. (Corinne) Dettmeijer-Vermeulen. Since 2018, the position is held by Mr H.J. (Herman) Bolhaar.

On the basis of Article 9 of the Dutch ‘National Rapporteur on Human Trafficking and Sexual Violence Against Children Act’ (Act of 15 November 2013) and prior regulations, the institution must be evaluated every four years. Pro Facto has been instructed by the Ministry of Justice and Security’s Research and Documentation Centre (WODC) to carry out this evaluation.

Main questions

This evaluation study poses four main questions:

- I. How did the National Rapporteur perform his duties in the period 2017-2020?
- II. What financial resources did the National Rapporteur have at his disposal in the period 2017-2020 and how were they used? How does this compare to the financial resources and expenditures of the National Rapporteurs in three other EU Member States?
- III. What did external parties think of the way the National Rapporteur performed his duties in the period 2017-2020?
- IV. To what extent should the tasks, working methods and/or powers of the National Rapporteur be changed – considering the answers to the first three main questions and the sub-questions – and what are the National Rapporteur’s views on any possible changes?

The findings and conclusions pertaining to each of the main questions are described below.

Approach

To answer the research questions, interviews were held with the National Rapporteur and eleven of his staff members (some staff members were interviewed more than once). In addition, 52 external stakeholders were interviewed about the way the National Rapporteur carried out his duties. In total, 64 persons were interviewed. These were officials suggested by (the Bureau of) the National Rapporteur, who, in our opinion or that of others, seemed relevant and persons who indicated in the digital survey (see below) that they were also prepared to be interviewed orally and about whom we felt, based on the survey data, that they could provide relevant additional input to the interviews we had already conducted.

In order to assess the external parties’ appraisal of how the National Rapporteur exercised his duties, we held interviews and we also sent out a digital survey. The response rate of the survey was 45% (145 respondents). Part of the research concerned a comparison between countries. The financial situation of the National Rapporteur, or a similar monitoring mechanism, was compared to that in three other European countries. The three countries compared were Belgium, the United Kingdom, and Germany.

Findings and conclusions

Re I. Performance of duties

The legal duty of the National Rapporteur is to investigate trafficking in human beings and sexual violence against children, to report on this periodically to the government, and to advise the government on the problems. The current National Rapporteur emphasizes in his mission and goals that his ambition is to structure and perform his legal duties in such a way as to maximize the added value for society. In that sense, he does not differ substantially from his predecessors.

The scope of the Rapporteur's mandates is in line with the concepts of human trafficking and sexual violence against children as defined in Dutch criminal law. Several times, international attention to human trafficking has resulted in the extension of criminal concepts. Because the National Rapporteur's mandate is in line with the criminal definition of human trafficking and sexual violence against children, the scope of the National Rapporteur's mandates have been extended several times in the past.

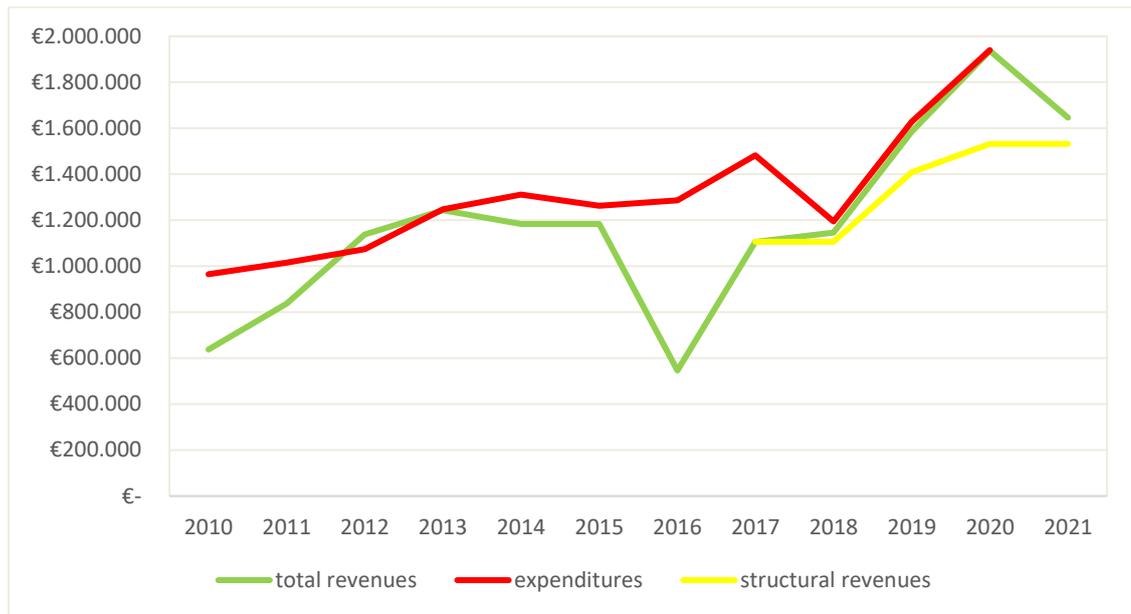
Through reports on the perpetrators and victims of human trafficking and sexual violence against children, the National Rapporteur provides periodic insights into the progress made and gives recommendations on how the approach could be improved. Dissemination of information (the spreading of the insights generated by reports) is an integral part of every individual project. It should be noted that the National Rapporteur, Mr Bolhaar, did less than he considered necessary. He blames this on a lack of resources. The Ministry of Justice and Security counters this argument by saying that the National Rapporteur was unable to prove that he could not perform his duties properly with the funds allocated to him.

The Coordination Centre against Human Trafficking (CoMensha) is an important supplier of quantitative data on victims, and there is also an increasing cooperation with Statistics Netherlands (Centraal Bureau voor de Statistiek, CBS). The legislator has not given the National Rapporteur any specific powers to collect data. No follow-up has yet been given to the National Rapporteur's recommendation of 2016 to create a legal basis for reporting and registering all victims of human trafficking.

Re II. Funding

The National Rapporteur receives annual funding from the Ministry of Justice and Security, the Ministry of Health, Welfare and Sport, the Ministry of Social Affairs and Employment, and the Ministry of Foreign Affairs.

REVENUES AND EXPENDITURES SINCE 2010



Since 2010, the expenditures of the National Rapporteur have been increasing slightly. As from 2018, the increase has been sharper, largely financed through one-off contributions from the ministries. The additional funding made it possible to hire extra staff. Since 2016, there has been an annual increase in staffing, partly on a temporary basis.

In 2019, an *Organization and Staffing plan* was drawn up for the *Office of the National Rapporteur on Trafficking in Human beings and Sexual Violence against Children*. The reason was that since the start in 2000, no organization and staffing plan had been drawn up, and so the initial formal staffing of 4 FTEs had not been updated. Also, the current National Rapporteur wanted to professionalize the organization and implement the recommendations made in the previous evaluation, so he decided to examine the staffing needs. The Organization and Staffing plan culminated in a so-called ‘was-will become-overview’ in which the existing functions and staffing (15.5 FTEs) are compared to the functions and staffing needed according to the plan (22.5 FTEs). The 22.5 FTEs amounted to a funding request of €2.5 million on a structural basis, i.e. an increase of €1 million. However, a detailed substantiation of this funding need is lacking. The funding request has not been approved. Through formal letters and the informal contacts, the National Rapporteur and the Director of the Office have tried at various times to secure additional funding. From the discussions held, including with observers at some distance from the organization, a picture emerges of rather strained relations between the ‘commissioning parties’ (particularly the Directorate-General for the Administration of Justice and Law Enforcement (*Directoraat-Generaal Rechtspleging en Rechtshandhaving*, DGRR) and the ‘contractor’ (the National Rapporteur)).

The National Rapporteur believes that the resulting budget is insufficient to fulfil his legal duties. The parties involved appear to have ended up in a stalemate. In the relationship between the Minister (i.e. the Ministry) of Justice and Security and the National Rapporteur, two principles are struggling for precedence. One principle is the constitutional independence of the National Rapporteur as an office and as an institution. The other principle is that of efficient conduct of business, which is reflected in the organization by the ‘owner-client-contractor’ model. This management model originates in the normal hierarchical relationships within the central government sector. It is based on the idea that implementation services perform tasks

against remuneration. From this management perspective, the autonomy of the National Rapporteur is relative. The two principles are at odds with each other, and this is reflected in the strained relations between the Ministry of Justice and Security and the National Rapporteur which has come to light in recent years, particularly with regard to the funding of the National Rapporteur Institute. A comparison with other countries shows that there, too, is an ongoing discussion about how much basic funding is needed to ensure that the National Rapporteur can adequately perform his duties.

The stalemate described above could be resolved through an integral administrative agreement between the Minister for Justice and Security and the National Rapporteur on the mutual relations and administrative embedding of the National Rapporteur Institute.

Re III. Appreciation

Although external parties directly involved in the mandates of the National Rapporteur are slightly more critical than the organizations further removed, the conclusion can be drawn that the appreciation of the publications, recommendations, cooperation, and the functioning of the National Rapporteur is generally high.

The publications issued by the National Rapporteur are generally positively received. External parties generally believe that the right issues are being investigated. The publications are of good quality according to external parties, and are described as ‘thorough’. In some cases, however, the monitoring reports are thought to rely too much on figures and the interpretation of the figures.

In general, the respondents are happy with the recommendations made by the National Rapporteur. In the interviews, a slightly more critical opinion on the recommendations in the publications emerged, compared to the survey. According to some, the recommendations were too abstract and not detailed enough. The results of the survey also show that the respondents were the least positive about the practical usefulness of the recommendations; however, more than 70% of the respondents fully or partly agreed with the statements that the recommendations were practice-oriented.

More than 90% of the respondents who cooperate with the National Rapporteur believe that the cooperation is working well. The view that the cooperation with the National Rapporteur is generally working well, is also confirmed in the interviews. External parties find the cooperation to be pleasant. Some respondents mention that it would be good if there were more cooperation and that they would get to speak with the National Rapporteur more often.

Re IV. Possible changes

Following the discussion on funding, a debate has arisen on the scope of the legal duties of the National Rapporteur. An integral administrative agreement such as the one mentioned above could bring the discussion to a satisfactory conclusion. More far-reaching measures would require a legislative amendment.

One possible amendment concerns the definition of the duties in Article 5. A point d. could be added to the description of duties, which would read as follows:

‘d. important additional activities inherent to the office.’

This would codify an established practice and would underline the independence of the National Rapporteur.

Another possible legislative amendment would entail that the National Rapporteur Institute would, by analogy, be included in the *Framework Act on independent government bodies*. In the Act concerned, the Minister of Justice and Security could be assigned a tailor-made set of monitoring instruments: monitoring tools which could, among other things, delimit the performance of the National Rapporteur's duties. It would entail a relativization of the National Rapporteur's autonomy, which until now has been a central tenet of the National Rapporteur Institute. It would also mean a break with the established practice that has developed over the past decades.

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